



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,159	12/19/2001	Krzysztof Pawlowski	P-LJ 5100	3587

23601 7590 10/06/2003  
CAMPBELL & FLORES LLP  
4370 LA JOLLA VILLAGE DRIVE  
7TH FLOOR  
SAN DIEGO, CA 92122

EXAMINER

DAVIS, MINH TAM B

ART UNIT	PAPER NUMBER
----------	--------------

1642

DATE MAILED: 10/06/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant(s)

10/032,159

Applicant(s)

PAWLOWSKI ET AL.

Examiner

MINH-TAM DAVIS

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 02.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-28 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

It is noted that it is noted that claim 28 is confusing, and thus for the purpose of compact prosecution, it is assumed that claimed 28 is drawn to a method of diagnosing or predicting clinical prognosis of a pathology characterized by an increased or decreased level of a nucleic acid molecule encoding a CARD-containing polypeptide, comprising contacting a test sample with a reagent that can bind the CARD-containing nucleic acid molecule which allow specific binding of said reagent to said nucleic acid molecule encoding CARD-containing polypeptide.

Claim 28 is drawn to a method of diagnosing or predicting clinical prognosis of a pathology characterized by an increased or decreased level of a CARD-containing "polypeptide", comprising contacting a test sample with a reagent that can bind the CARD-containing "nucleic acid molecule" under suitable conditions, which allow specific binding of said reagent to said CARD-containing "polypeptide".

Claim 28 is confusing because a reagent that can bind the CARD-containing "nucleic acid molecule" cannot also have "specific" binding to a CARD-containing "polypeptide".

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

**Group 1.** Claims 1-10, 14, as drawn to:

1) An isolated nucleic acid molecule encoding a CARD-containing polypeptide of CARD-11X (SEQ ID NO:8), fragments thereof, a kit, variants thereof, and a nucleic acid molecule that hybridizes to said nucleic acid molecule,

2) A vector or a cell containing said nucleic acid molecule, and

37) A method for producing a CARD-containing polypeptide, classified in class 536, subclasses 23.1 and 24.3, and class 435, subclass 69.1,

**Group 2.** Claims 1-10, 14, as drawn to:

1) An isolated nucleic acid molecule encoding a CARD-containing polypeptide of CARD-12X (SEQ ID NO:16), fragments thereof, a kit, variants thereof, and a nucleic acid molecule that hybridizes to said nucleic acid molecule,

2) A vector or a cell containing said nucleic acid molecule, and

37) A method for producing a CARD-containing polypeptide, classified in class 536, subclasses 23.1 and 24.3, and class 435, subclass 69.1,

**Group 3.** Claims 2, 7-10, as drawn to a fragment of a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-10X (SEQ ID NO:2), classified in class 536, subclasses 23.1 and 24.3,

**Group 4.** Claims 11-13, as drawn to a CARD- containing polypeptide comprising substantially the same amino acid sequence as CARD-11X (SEQ ID NO:8), and fragments of CARD-11X, classified in class 530, subclasses 300 and 350,

**Group 5.** Claims 11-13, as drawn to a CARD-containing polypeptide comprising substantially the same amino acid sequence as CARD-12X (SEQ ID NO:16), and fragments of CARD-12X, classified in class 530, subclasses 300 and 350,

**Group 6.** Claims 12-13, as drawn to a fragment of CARD-10X (SEQ ID NO:2), classified in class 530, subclass 300,

**Group 7.** Claims 15-18, as drawn to an antibody specific to a CARD-containing polypeptide comprising substantially the same amino acid sequence as CARD-11X (SEQ ID NO:8), and fragments thereof, classified in class 530, subclass 387.1,

**Group 8.** Claims 15-18, as drawn to an antibody specific to a CARD-containing polypeptide comprising substantially the same amino acid sequence as CARD-12X (SEQ ID NO:16), and fragments thereof, classified in class 530, subclass 387.1,

**Group 9.** Claims 15-18, as drawn to an antibody specific to a fragment of CARD-10X (SEQ ID NO:2), classified in class 530, subclass 300,

**Group 10.** Claims 19-20, as drawn to a transgenic non-human mammal, expressing exogenously a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-11X (SEQ ID NO:8), or a nucleic acid molecule that hybridizes to said nucleic acid molecule, classified in class 800, subclass 2,

**Group 11.** Claims 19-20, as drawn to a transgenic non-human mammal, expressing exogenously a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-12X (SEQ ID NO:16), or a nucleic acid molecule that hybridizes to said nucleic acid molecule, classified in class 800, subclass 2,

**Group 12.** Claim 21, as drawn to a method for identifying a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-11X (SEQ ID NO:8), classified in class 435, subclass 6,

**Group 13.** Claim 21, as drawn to a method for identifying a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-12X (SEQ ID NO:16), classified in class 435, subclass 6,

**Group 14.** Claim 21, as drawn to a method for identifying a nucleic acid molecule encoding a CARD-containing polypeptide of CARD-10X (SEQ ID NO:2), classified in class 435, subclass 6,

**Group 15.** Claim 22, as drawn to method for detecting the presence of a CARD-containing polypeptide of CARD-11X (SEQ ID NO:8), or fragments thereof, classified in class 435, subclass 7.1.

**Group 16.** Claim 22, as drawn to method for detecting the presence of a CARD-containing polypeptide of CARD-12X (SEQ ID NO:16), or fragments thereof, classified in class 435, subclass 7.1.

**Group 17.** Claim 22, as drawn to method for detecting the presence of fragments of a CARD-containing polypeptide of CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

**Group 18.** Claim 23, drawn to a method for identifying a polypeptide associated with CARD-11X (SEQ ID NO:8), or fragments thereof, classified in class 435, subclass 7.1.

**Group 19.** Claim 23, drawn to a method for identifying a polypeptide associated with CARD-12X (SEQ ID NO:16), or fragments thereof, classified in class 435, subclass 7.1.

**Group 20.** Claim 23, drawn to a method for identifying a polypeptide associated with fragments of a CARD-containing polypeptide of CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

**Group 21.** Claim 24, drawn to a method for identifying an effective agent that alters the association of the CARD-containing polypeptide CARD-11X (SEQ ID NO:8) with a CARD-associated polypeptide, classified in class 435, subclass 7.1.

**Group 22.** Claim 24, drawn to a method for identifying an effective agent that alters the association of the CARD-containing polypeptide CARD-12X (SEQ ID NO:16) with a CARD-associated polypeptide, classified in class 435, subclass 7.1.

**Group 23.** Claim 24, drawn to a method for identifying an effective agent that alters the association of a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2) with a CARD-associated polypeptide, classified in class 435, subclass 7.1.

**Group 24.** Claim 25, drawn to a method for altering a biochemical process modulated by the CARD-containing polypeptide CARD-11X (SEQ ID NO:8) classified in class 514, subclass 44.

**Group 25.** Claim 25, drawn to a method for altering a biochemical process modulated by the CARD-containing polypeptide CARD-12X (SEQ ID NO:16) classified in class 514, subclass 44.

**Group 26.** Claim 25, drawn to a method for altering a biochemical process modulated by a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2) classified in class 514, subclass 44.

**Group 27.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by an "increased" level of the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 7.1.

**Group 28.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by an "increased" level of the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 7.1.

**Group 29.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by an "increased" level of a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

**Group 30.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by a "decreased" level of the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 7.1.

**Group 31.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by a "decreased" level of the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 7.1.

**Group 32.** Claims 26-27, drawn to a method for diagnosing of a pathology characterized by a "decreased" level of a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.



**Group 33.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 7.1.

**Group 34.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 7.1.

**Group 35.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

**Group 36.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 7.1.

**Group 37.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 7.1.

**Group 38.** Claims 26-27, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of a fragment of the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

**Group 39.** Claim 28, drawn to a method for diagnosing of a pathology characterized by an “increased” level of the nucleic acid molecule encoding CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 6.

**Group 40.** Claim 28, drawn to a method for diagnosing of a pathology characterized by an “increased” level of the nucleic acid molecule encoding CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 6.

**Group 41.** Claim 28, drawn to a method for diagnosing of a pathology characterized by an “increased” level of a fragment of the nucleic acid molecule encoding CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 6.

**Group 42.** Claim 28, drawn to a method for diagnosing of a pathology characterized by a “decreased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 6.

**Group 43.** Claim 28, drawn to a method for diagnosing of a pathology characterized by a “decreased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 6.

**Group 44.** Claim 28, drawn to a method for diagnosing of a pathology characterized by a “decreased” level of a fragment of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 6.

**Group 45.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 6.

**Group 46.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 6.

**Group 47.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by an “increased” level of a fragment of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 6.

**Group 48.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-11X (SEQ ID NO:8), classified in class 435, subclass 6.

**Group 49.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-12X (SEQ ID NO:16), classified in class 435, subclass 6.

**Group 50.** Claim 28, drawn to a method for predicting clinical prognosis of a pathology characterized by a “decreased” level of a fragment of the nucleic acid molecule encoding the CARD-containing polypeptide CARD-10X (SEQ ID NO:2), classified in class 435, subclass 7.1.

In addition, group 1 is further subjected to election of a single discloses species nucleotide sequences with different structure and function:

Art Unit: 1642

Claims 1-10, 14 of group 1 are generic to a plurality of the following patentably distinct species comprising :

A nucleotide sequence encoding 1) full length CARD-11X (SEQ ID NO:8), 2) its CARD domain (SEQ ID NO:10), 3) its ERM domain (SEQ ID NO:12), or 4) its PDZ domain (SEQ ID NO:14).

Group 3 is further subjected to election of a single discloses species nucleotide sequences with different structure and function:

Claims 2, 7-10 of group 3 are generic to a plurality of the following patentably distinct species comprising :

The nucleotide sequence encoding 1) the CARD domain of CARD-10X (SEQ ID NO:4), or 2) the filament domain of CARD-10X (SEQ ID NO:6).

Groups 4 and 7 further subjected to election of a single discloses species polypeptide sequences with different structure and function:

Claims 11-13 of group 4 and claims 15-18 of group 7 are generic to a plurality of the following patentably distinct species comprising :

1) Full length CARD-11X polypeptide sequence (SEQ ID NO:8), 2) its CARD domain (SEQ ID NO:10), 3) its ERM domain (SEQ ID NO:12), or 4) its PDZ domain (SEQ ID NO:14).

Groups 6 and 9 are further subjected to election of a single discloses species polypeptide sequences with different structure and function:

Claims 12-13 of group 6 and claims 15-18 of group 9 are generic to a plurality of the following patentably distinct species comprising :

1) The CARD domain of CARD-10X (SEQ ID NO:4) 2) the filament domain of CARD-10X (SEQ ID NO:6).

The inventions are distinct, each from each other because of the following reasons:

Groups 1 and (12,39,42,45,48) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. 806.05 (h)). In this instant case, a DNA sequence could be used in a materially different processes, e.g. for the detection of similar DNA or RNA sequences, for making an expression vector, and for producing its encoded protein.

Groups 2 and (13,40,43,46,49) are related as product and process of use. In this instant case, a DNA sequence could be used in a materially different processes, e.g. for the detection of similar DNA or RNA sequences, for making an expression vector, and for producing its encoded protein.

Groups 3 and (14,41,44,47,50) are related as product and process of use. In this instant case, a DNA sequence could be used in a materially different processes, e.g. for the detection of similar DNA or RNA sequences, for making an expression vector, and for producing its encoded protein.

Groups 4 and (15,18,21,24,27,30,33,36) are related as product and process of use. In this instant case, a polypeptide could be used for several purposes, e.g. for

Art Unit: 1642

biochemical assay, for making antibodies, and for making an affinity column to purify its antibodies.

Groups 5 and (16,19,22,25,28,31,34,37) are related as product and process of use. In this instant case, a polypeptide could be used for several purposes, e.g. for biochemical assay, for making antibodies, and for making an affinity column to purify its antibodies.

Groups 6 and (17,20,23,26,29,32,35, 38) are related as product and process of use. In this instant case, a polypeptide could be used for several purposes, e.g. for biochemical assay, for making antibodies, and for making an affinity column to purify its antibodies.

Groups 7 and (15,18,21,24,27,30,33,36) are related as product and process of use. In this instant case, an antibody could be used for several purposes, e.g for immunoassay, for purification of its antigen, and for detection of diseases.

Groups 8 and (16,19,22,25,28,31,34,37) are related as product and process of use. In this instant case, an antibody could be used for several purposes, e.g for immunoassay, for purification of its antigen, and for detection of diseases.

Group 9 and (17,20,23,26,29,32,35, 38) are related as product and process of use. In this instant case, an antibody could be used for several purposes, e.g for immunoassay, for purification of its antigen, and for detection of diseases.

In addition, the nucleic acid molecule of group 1 is not related to the methods of groups 13-38, 40-41, 43-44, 46-47, 49-50, because the nucleic acid molecule of group 1 is not used in the methods of groups 13-38, 40-41, 43-44, 46-47, 49-50.

Art Unit: 1642

The nucleic acid molecule of group 2 is not related to the methods of groups 12, 14-39,41-42,44-45,47-48,50, because the nucleic acid molecule of group 1 is not used in the methods of groups 12, 14-39,41-42,44-45,47-48,50.

The nucleic acid molecule of group 3 is not related to the methods of groups 12-13,15-40,42-43,45-46,48-49, because the nucleic acid molecule of group 1 is not used in the methods of groups 12-13,15-40,42-43,45-46,48-49.

The protein of group 4 is not related to the methods of groups 12-14,16-17,19-20,22-23,25-26,28-29,31-32,34-35,37-50, because the protein of group 4 is not used in the methods of groups 12-14,16-17,19-20,22-23,25-26,28-29,31-32,34-35,37-50.

The protein of group 5 is not related to the methods of groups 12-15,17-18,20-21,23-24,26-27,29-30,32-33,35-36,38-50, because the protein of group 4 is not used in the methods of groups 12-15,17-18,20-21,23-24,26-27,29-30,32-33,35-36,38-50.

The protein of group 6 is not related to the methods of groups 12-16,18-19,21-22,24-25,27-28,30-31,33-34,36-37,39-50, because the protein of group 4 is not used in the methods of groups 12-16,18-19,21-22,24-25,27-28,30-31,33-34,36-37,39-50.

The antibody of group 7 is not related to the methods of groups 12-14,16-17,19-20,22-23,25-26,28-29,31-32,34-35,37-50, because the antibody of group 7 is not used in the methods of groups 12-14,16-17,19-20,22-23,25-26,28-29,31-32,34-35,37-50.

The antibody of group 8 is not related to the methods of groups 12-15,17-18,20-21,23-24,26-27,29-30,32-33,35-36,38-50, because the antibody of group 7 is not used in the methods of groups 12-15,17-18,20-21,23-24,26-27,29-30,32-33,35-36,38-50.

The antibody of group 9 is not related to the methods of groups 12-16, 18-19, 21-22, 24-25, 27-28, 30-31, 33-34, 36-37, 39-50, because the antibody of group 7 is not used in the methods of groups 12-16, 18-19, 21-22, 24-25, 27-28, 30-31, 33-34, 36-37, 39-50.

The transgenic animal of groups 10-11 are not related to the methods of groups 12-50, because the transgenic animal of groups 10-11 are not used in the methods of groups 12-50.

The products of groups 1-11 are patentably distinct, because they are drawn to entirely different biochemicals, having different structures, biological properties and activities, or different animals with different properties.

The methods of groups 12-50 are distinct from each other because they differ at least in objectives, method steps, reagents and/or dosages, and/or schedules used, response variables and criteria for success.

The species are distinct, because they have different structure and therefore different function.

Because these inventions are distinct for the reason given above and have acquired a separate status in the art, and further, because the searches for the groups are not co-extensive, and therefore, it would be a serious burden for the Examiner to examine all the groups and species together, restriction for examination purposes as indicated is proper.

Applicants are required under 35 USC 121 to elect a single disclosed group for prosecution on the merits to which the claims shall be restricted even though the requirement could be traversed. Applicant is further advised that if Applicant elects a



Art Unit: 1642

group having species requirement, a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 USC 103 of the other invention.

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 703-305-2008. The examiner can normally be reached on 9:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANTHONY CAPUTA can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0916.



MINH TAM DAVIS

September 04, 2003